

01-R-1786

A RESOLUTION BY

CITY UTILITIES COMMITTEE

A RESOLUTION TO AUTHORIZE PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE GEORGIA ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF TWO HUNDRED SEVENTY THOUSAND FIVE HUNDRED AND 00/100 (\$270,500.00) FOR DISCHARGES FROM THE CITY OF ATLANTA'S WASTEWATER FACILITIES PURSUANT TO THE FIRST AMENDED CONSENT DECREE, CIVIL ACTION FILE NO. 1:98-CV-1956-TWT, AND THE DEMAND FOR STIPULATED PENALTIES DATED SEPTEMBER 18, 2001, FOR THE PERIOD APRIL 1, 2001 TO JUNE 30, 2001; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, during the period from April 1, 2001 to June 30, 2001, the City experienced 260 discharges from its wastewater facilities, of which 102 were discharges to waters and 158 were discharges to dry land having a total estimated volume of 370,740 gallons or more; and

WHEREAS, during the same period there were 5 overflows on record which were not included in the Quarterly Report as required by Section VIII.E.1(m) of the First Amended Consent Decree; and

WHEREAS, these discharges and failures to report are being assessed stipulated penalties in the amount of \$270,500.00 imposed at the discretion of the Georgia Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) and the United States Environmental Protection Agency (EPA) pursuant to the First Amended Consent Decree, Civil Action File No. 1:98-cv-1956-TWT, and the Demand for Stipulated Penalties dated September 18, 2001; and

WHEREAS, the Department of Public Works of the City does not dispute the fact that these discharges and failure to report did occur; and

WHEREAS, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for this purpose are available in account number 2J01-529017-M51001; and

WHEREAS, the total amount of the stipulated penalty of \$ 270,500.00 is to be divided equally between EPA and EPD pursuant to the First Amended Consent Decree; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:

Section One: That the Chief Financial Officer of the City is authorized to issue a check in the amount of One Hundred Thirty-Five Thousand Two Hundred Fifty and 00/100 Dollars (\$135,250.00) payable to the **Treasurer, the United States of America** as a stipulated penalty imposed at the discretion of the United States Environmental Protection Agency;

Section Two: That the Chief Financial Officer of the City is authorized to issue a check in the amount of One Hundred Thirty-Five Thousand Two Hundred Fifty and 00/100 Dollars (\$135,250.00) payable to the **State of Georgia** as a stipulated penalty imposed at the discretion of the Georgia Environmental Protection Division of the Department of Natural Resources of the State of Georgia;

Section Three: That the said payments be chargeable to Account Number 2J01 529017 M51001.